



POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings : X

- against : FINAL

Sergeant Louis Failla : ORDER

Tax Registry No. 920264 : OF

Military and Extended Leave Desk : DISMISSAL

X

Sergeant Louis Failla, Tax Registry No. 920264, Social Security No. ending in

[REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 2018-19508, as set forth on form P.D. 468-121, dated September 26, 2018, and amended on October 28, 2019, and after a review of the entire record, is found Guilty of Specifications 1, 2, 3, 4, 6, and 9.

Now therefore, pursuant to the powers vested in me by Section 14 115 of the Administrative Code of the City of New York, I hereby DISMISS Sergeant Louis Failla from the Police Service of the City of New York.



JAMES P. O'NEILL
POLICE COMMISSIONER

EFFECTIVE: 11/12/19



POLICE DEPARTMENT

November 12, 2019

-----X-----
In the Matter of the Charges and Specifications : Case No.
- against - : 2018-19508
Sergeant Louis Failla :
Tax Registry No. 920264 :
Military and Extended Leave Desk :
-----X-----

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Anna Krutaya, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Andrew Quinn, Esq.
The Quinn Law Firm
Crosswest Office Center
399 Knollwood Road – Suite 220
White Plains, NY 10603

To:
HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Sergeant Louis Failla, while assigned to the Patrol Borough Queens South Specialized Units, on or about and between June 7, 2018 to June 21, 2018, both on and off duty, in the State of New York, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant, being a public servant, with intent to obtain a benefit or deprive another person of a benefit he knowingly refrained from performing a duty which was imposed upon him by law or was clearly inherent in the nature of his office.

Penal Law Section 195.00-1, 2 OFFICIAL MISCONDUCT
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT

2. Said Sergeant Louis Failla, while assigned to the Patrol Borough Queens South Specialized Units, on or about and between March 5, 2016 and June 21, 2018, while both on and off duty, in the State of New York, wrongfully conducted at least eighty (80) computer inquiries, using Department databases, which were unrelated to Department business.

P.G. 219-14, Page 1, Paragraph 2 DEPARTMENT COMPUTER SYSTEMS

3. Said Sergeant Louis Failla, while assigned to the Patrol Borough Queens South Specialized Units, on or about and between March 5, 2016 and September 12, 2018, while both on and off duty, in the State of New York, did wrongfully divulge or discuss official Department business without permission or authority to do so.

P.G. 203-10, Page 1, Paragraph 3 PUBLIC CONTACT - PROHIBITED
CONDUCT

4. Said Sergeant Louis Failla, while assigned to the Patrol Borough Queens South Specialized Units, on or about and between March 5, 2016 to June 21, 2018, both on and off duty, in the State of New York, did knowingly associate with persons or organizations reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities.

P.G. 203-10 Page 1 Paragraph 2(C) PUBLIC CONTACT-PROHIBITED
CONDUCT

5. Said Sergeant Louis Failla, while assigned to the Patrol Borough Queens South Specialized Units, on or about and between March 21, 2017 and April 6, 2017, while off duty, in the State of New York, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant did exchange United States Currency for performance of sexual acts.

Penal Law Section 230.04 PATRONIZING A PERSON FOR
PROSTITUTION IN THE THIRD
DEGREE
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT

6. Said Sergeant Louis Failla, while assigned to the Military and Extended Leave Desk, on or about October 22, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant made misleading statements regarding his conversation with another individual known to the Department about the possibility of committing insurance fraud. (*As added*)

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT

7. Said Sergeant Louis Failla, while assigned to the Military and Extended Leave Desk, on or about October 22, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant made misleading statements regarding him patronizing a prostitute. (*As added*)

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT

8. Said Sergeant Louis Failla, while assigned to the Military and Extended Leave Desk, on or about October 22, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant made misleading statements regarding his conversation with another individual known to the Department about the possibility of committing assault. (*As added*)

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT

9. Said Sergeant Louis Failla, while assigned to the Military and Extended Leave Desk, on or about October 22, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Sergeant made misleading statements regarding his conversation with another individual known to the Department about the possibility of intimidating a third party. (*As added*)

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 6, 2019.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The Department called Sergeant Nicholas Colavito of IAB as a witness, and introduced into evidence multiple computer audits and recordings of wiretap calls. Respondent, [REDACTED]
[REDACTED], elected not to testify on the advice of his counsel, even after being ordered to do

so by a lieutenant from the Department Advocate's Office. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find as follows:

Specification 1 (official misconduct): Guilty
Specification 2 (computer inquiries): Guilty
Specification 3 (discussed Department business): Guilty
Specification 4 (criminal association): Guilty
Specification 5 (patronizing a prostitute): Not Guilty
Specification 6 (misleading statements, insurance fraud): Guilty
Specification 7 (misleading statements, prostitute): Not Guilty
Specification 8 (misleading statements, assault): Not Guilty
Specification 9: (misleading statements, intimidation): Guilty

Recommended penalty: Dismissal from the Department.

ANALYSIS

An investigation into retired Detective Ludwig Paz, which included surveillance and wiretaps, uncovered evidence that Paz was operating a prostitution, gambling enterprise. Respondent faces charges stemming from his interactions with Paz from 2016 through 2018. It is alleged that Respondent committed multiple acts of misconduct on behalf of Paz, and that Respondent then provided misleading statements about his actions during his Department interview.

Approximately three weeks prior to this trial, Sergeant Nicholas Colavito of IAB was assigned as the lead investigator on the administrative side for Respondent's case. He reviewed phone and computer records compiled by Group 42 of IAB in which Respondent "was flagged as

a known associate" of Paz. He also reviewed phone recordings obtained through wiretaps on phones connected to Paz and his prostitution and gambling locations. (Tr. 33-36, 43, 115) The Department Advocate introduced into evidence a disc containing recordings of 12 wiretap conversations, along with transcriptions of those calls (Dept. Ex. 2 and 3, respectively), as well as records from several OMNI Audits that list specific computer searches made under Respondent's user identification number.

Included on the wiretaps are three calls between Paz and Respondent on June 7, 2018. In call no. 6901, which begins at 1046 hours, Paz (who is referred to in the transcription as "Agua") tells Respondent that vice cops raided one of his spots the day before, and he asks Respondent to run the address and find out the arrest charges. Respondent agrees to do so, and asks Paz to text him the address.

That call is followed by call no. 6902 at 1102 hours, during which Paz and Respondent discuss the arrest. Specifically, one male was arrested, but "the girls" were let go with just Desk Appearance Tickets, which surprises Paz. Respondent states that he will do "a little research" on why they were issued DAT's, and then proceeds to start checking prostitution arrests in different boroughs for comparison purposes. Paz, who is separately speaking with an attorney during this conversation, says that he needs to know how many arrests the male has, and Respondent tells him "I'll tell you right now:" Respondent then reads off to Paz the male's arrest record. The two men also discuss the supervising sergeant from the arrest: Respondent does a check on him and discusses with Paz the sergeant's different assignments.

In the third call, no. 6903, which begins at 1159 hours. Paz tells Respondent the details of how the arrest went down. Respondent suggests that the charges will be reduced, then tells Paz, "Keep me posted, I'm curious myself."

Two audit reports (Dept. Ex. 12 and 13), listing computer searches made under Respondent's user identification number¹, show multiple computer inquiries into the arrests were made around the times of the above-referenced phone calls on June 7, 2018. Specifically, searches were made beginning at 1056 hours, which is between the first and second phone calls. Additional arrest searches were conducted while Respondent and Paz were on the phone together for the second call.

In wiretap call No. 5923, which occurred at 1622 hours on May 9, 2018, Paz tells his wife that he had a discussion with a landlord acquaintance, "Person A," who stated that "Louis" had run a check on an incident that occurred the day before. According to Sergeant Colavito, the incident involved a 911 call for shots fired at [REDACTED], which was one of Paz's prostitution locations. Results of an audit search (Dept. Ex. 11) indicate that at 1604 hours on May 9, about 18 minutes before the above-referenced call, a computer search of the 911 call had been conducted under Respondent's log-in number. (Tr. 66-70, 123-27, 140)

In two wiretap calls on June 21, 2018, Paz and Person A discuss how Person A needs an arrest and docket number for the execution of a warrant that occurred at [REDACTED]. In call no. 2381, at 1455 hours, Paz tells Person A he'll have the information for him the following morning. In call no. 7585 at 1513 hours, Respondent joins Paz and Person A on the phone to discuss the requested information, which Person A apparently wants to use against the arrestee. Respondent checks for the arrest, searching multiple dates, but cannot find information on the incident. Respondent agrees to give Person A a referral to a community affairs guy who might be able to help. Results of an audit search (Dept. Ex. 16) indicate that on June 21, 2018, during the

¹ Sergeant Colavito testified that from the IP address listed in the audit records, IAB was able to identify the specific computer used to make the inquiries, which was located on a desk in Respondent's work station at the 105 Precinct (see photographs of the computer, Dept. Ex. 15). (Tr. 80-83)

time of this second call, searches of [REDACTED] were being conducted under Respondent's user identification number.

In wiretap call no. 11232, which occurred at 1809 hours on October 18, 2017, Paz calls Respondent and shares with him details about someone else's spot where they have police officers tipping them off in advance of raids. Respondent laughs along as Paz relates how the location was hit with a search warrant.

There are four additional wiretap calls, each of which Respondent was questioned about during his Department interview on October 22, 2019 (Dept. Ex. 17 and 18):

- In wiretap call no. 6162, at 1638 hours on April 16, 2017, Respondent places a call to [REDACTED] and speaks with a woman identified in the transcription as "Person B." Sergeant Colavito testified that the address was one of Paz's known prostitution locations, and that Person B was an associate of Paz. Respondent asks Person B if it is a good time to come now, and she tells him yes. Respondent states he will be there in five minutes. In call no. 6164 at 1641 hours, Respondent calls Person B again to tell her that he's in the back. Sergeant Colavito testified that there was no evidence that Respondent actually engaged with a prostitute. (Tr. 89-91, 113) When questioned about this incident at the interview, Respondent denied ever soliciting or having sex with a prostitute, and did not recall the conversation with Person B or going to the location. (Dept. Ex. 18 at 16 19)

- In wiretap call no. 5114, a call at 1216 hours on June 1, 2017. Paz asks Respondent's advice on how to deal with his daughter's ex-boyfriend. Paz suggests that he has two options: either the kid will get beat up at a club, or Paz will file a police report against him for stalking his daughter. Respondent suggests that filing a report could be problematic because the kid might cause difficulties with the information he has about Paz running numbers. Respondent does not

specifically comment on the first option. In his Department interview, Respondent stated that he did not recall the conversation, but noted that Paz would often "yap, yap, yap," and so Respondent would "yes him a lot" without knowing what specifically Paz was talking about. Respondent also insisted that from the summary of the conversation provided to him, he had not suggested that assault was the better option. (Dept. Ex. 18 at 46-54)

- In wiretap call no. 6730, a call at 1743 hours on March 20, 2017, Paz tells Respondent he wants someone to call and scare the owner of a restaurant who is charging Paz \$1,500 for a table. Since Respondent used to work in the area, Paz asks if he knows anyone who can handle the situation. Respondent tells him that he no longer has anyone up there, that the people that he knew are all gone. In his Department interview, Respondent stated that he recalled Paz asking him if he knew someone who could get him into a club. Respondent remembered being amazed at the \$1,500 cost to sit at a table, and did not recall hearing Paz say that he wanted someone to scare the owner. (Dept. Ex. 18 at 63-66)

- In wiretap call no. 1024, a call between Respondent and Paz at 1536 hours on November 21, 2016, Paz tells Respondent that he does not want to go through insurance to get a car repaired. It is unclear whose car is being discussed, but it appears that a family car was involved in some kind of accident with a female motorist. Respondent suggests that Paz can pay the female motorist \$3,000 of his own money, of which there will be no record, and that the female can then report it as a hit-and-run and collect the money to repair the car from her insurance company. In his Department interview, Respondent stated that he had no recollection of the conversation at all, and that he did not "think that would be advice [he] would give." (Dept. Ex. 18 at 8-11)

Phone records show that an unrecorded phone call was made from Paz to Respondent at 0300 hours on November 16, 2017 (Dept. Ex. 9). City time records for Respondent (Dept. Ex. 10) indicate that Respondent started his tour at 0655 hours on November 16. Audit reports (Dept. Ex. 6, 7, and 8) show that Respondent's computer log in was used to make multiple arrest inquiries, and a 911 call inquiry, beginning at 0736 hours on November 16. Sergeant Colavito testified that the arrests occurred at [REDACTED], one of Paz's prostitution locations. According to Sergeant Colavito, during a subsequent wiretap call between Paz and one of his employees, they discuss information from one of the complaint reports on the case, which indicates that someone had conducted a computer search and passed the information on to Paz; there was, however, no direct evidence that it was Respondent, himself, who shared that information with Paz. (Tr. 49-65, 136-38, 140)

The Department Advocate also introduced into evidence an audit of inquiries made under Respondent's user identification number from January 2016 through September 2016. (Dept. Ex. 2) Those records show that on March 5th and 6th, inquiries were made into prostitution arrests in Queens. Sergeant Colavito testified that one of those arrested was a Person C, who was the ex-boyfriend of Paz's daughter and was an associate in Paz's criminal enterprise. There also was an arrest from [REDACTED] [REDACTED], an address connected to Paz's prostitution operation. According to Sergeant Colavito, Respondent was assigned to the 105 Precinct at the time, and would have had no legitimate reason to conduct those computer inquiries. There was not, however, any evidence that Respondent passed this information along to Paz. (Tr. 41-43, 118-23)

The specifications will be considered out of order.

Specification 2 charges Respondent with wrongfully conducting at least 80 computer inquiries between March 5, 2016 and June 21, 2018 using the Department's databases. Section

219-14 (2) of the Patrol Guide states that members of service may "make only official inquiries, which relate to official business of the Department "

The Department Advocate relies on the various audit reports and wiretap recordings to prove that Respondent repeatedly conducted unauthorized computer inquiries. The reports established that many of these searches were made using Respondent's user identification number, and there was compelling evidence that it was Respondent, himself, who conducted these searches; some of the searches were specifically discussed, close in time, in wiretap conversations involving Respondent, and the specific computer used was traced to Respondent's work station at the 105 Precinct.

For instance, there was credible evidence of Respondent wrongfully conducting computer inquiries for Paz on June 7, 2018 (Dept. Ex. 12 and 13, wiretap call no. 6902), for Person A and Paz on June 21, 2018 (Dept. Ex. 16, wiretap call no. 7585), and for Paz on November 16, 2017 (Dept. Ex. 9, Dept. Ex. 6, 7, and 8). Additionally, Dept. Ex. 2 contains evidence of multiple improper searches conducted by Respondent in 2016. Searches on two dates, March 5th and 6th, involved prostitution arrests directly connected to a Paz associate and one of Paz's prostitution locations. Sergeant Colavito credibly testified that there would have been no legitimate job related reason for Respondent to be conducting such searches.

Although no exact number was provided as to how many such searches were conducted, it is clear from the evidence that Respondent wrongfully conducted multiple computer inquiries not related to official Department business. Accordingly, I find Respondent guilty of Specification 2.

Specification 3 charges Respondent with wrongfully divulging or discussing official Department business between March 5, 2016 and June 21, 2018. Section 219 14 (3) of the

Patrol Guide dealing with the Department's computer systems states that members of the service must "not divulge any information obtained from the system, except for valid law enforcement purpose."

Here, wiretap calls established an on-going series of communications between Respondent and Paz regarding specific arrests. During these conversations, Respondent discusses with Paz specific arrest information that Respondent obtained through inquiries made on the Department computer. For instance, in wiretap call no. 6902 from June 7, 2018, Respondent provides arrest information from a raid of one of Paz's spots, and also shares information he learns from checking on other prostitution arrests throughout the city. The audit reports (Dept. Ex. 12 and 13) confirmed that computer inquiries were made under Respondent's user identification number at that time, and I find that the only reasonable conclusion is that Respondent, himself, conducted those inquiries, as well as the other inquiries made under his user identification number.

There were other examples of Respondent sharing computer information as well. During wiretap call no. 5923 on May 9, 2018, Paz tells his wife that "Louis" had run a check on an incident that occurred the day before. The audit report (Dept. Ex. 11) confirmed that about 18 minutes before the call, Respondent had conducted a search regarding the incident. Under the circumstances, I find the evidence sufficient to establish that the "Louis" referred to in the phone call was Respondent.

These phone recordings, in conjunction with the computer audit reports, establish by a preponderance of the credible evidence that Respondent wrongfully shared information that he obtained through inquiries made on the Department's computers. Accordingly, I find Respondent guilty of Specification 3.

Specification 4 charges that Respondent, between March 5, 2016 and June 21, 2016, did knowingly associate with persons or organizations reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities. Section 203-10 (2)(c) states that members of service must not “knowingly associate with any person or organization reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities.”

As discussed above, there is considerable evidence that Respondent had extensive interactions with Paz, who Respondent had reason to believe was engaged in criminal activities. During the wiretap calls, the two men openly discuss, with specificity, the criminal operation being run by Paz. Moreover, Respondent actively assists Paz by providing him with arrest information connected to Paz's locations. In one call (wiretap call no. 6903), Respondent concludes their discussion of the June 7, 2018 arrests by telling Paz, “Keep me posted. I'm curious myself.” In the face of all this compelling evidence, I find Respondent's statement at his Department interview, that he did not know that Paz was engaged in illegal prostitution and gambling, to be incredible and unworthy of belief. The record has established by a preponderance of the credible evidence that Respondent knowingly associated with a person likely to be engaged in criminal activity, and I find him guilty of Specification 4.

Specification 5 charges Respondent with exchanging United States Currency for the performance of sexual acts. Two wiretap recordings capture Respondent calling a woman at [REDACTED] [REDACTED] which Sergeant Colavito testified was one of Paz's prostitution locations. Respondent asks if it is a good time for him to come over, and is told yes. A few minutes later, Respondent calls again to say he is out back. However, Sergeant Colavito conceded that there was no evidence that Respondent actually engaged in sexual activity with a prostitute at that time.

On the one hand, this tribunal recognizes that Respondent may well have gone to this location in order to patronize a prostitute. However, in the absence of any evidence as to what actually occurred after the two phone calls, it would be mere speculation to assume that Respondent committed the charged misconduct. The record has failed to establish, by a preponderance of the credible evidence, that Respondent did engage in sexual acts at that time, and I find him not guilty of Specification 5.

Specification 1 charges Respondent with committing Official Misconduct in that he intended to obtain a benefit by knowingly refraining from performing a lawful duty. The language of this specification mirrors the misdemeanor crime of Official Misconduct. *See N.Y. Penal Law § 195.00*

The credible evidence has established that Paz, who oversaw prostitution and gambling operations, reached out to Respondent by phone on several occasions, asking for information that would be useful to him in the running of his criminal enterprises. While Respondent claims not to have known Paz was engaged in criminal activity, as discussed above, this denial is incredible based on the nature of his conversations with Paz and the fact that Paz made multiple requests for information about prostitution arrests. Moreover, the audio and documentary evidence confirms that Respondent obliged these requests, using Department computers and databases to obtain information for Paz on several occasions.

As a uniformed officer sworn to uphold the law, Respondent was obligated to report Paz's criminal activity. Instead, he opted to ignore that duty and refrained from reporting Paz, a clear and unambiguous benefit to his former colleague, and utilized Department computers and databases to provide Paz with information. Accordingly, I find Respondent guilty of Official Misconduct as set forth in Specification 1.

Specifications 6 thorough 9 alleged that Respondent made multiple misleading statements during his October 22, 2019 Department interview. The alleged misleading statements will be addressed individually.

Specification 6 alleges that Respondent made misleading statements in his interview regarding the conversation with Paz about the possibility of committing insurance fraud. At the interview, the investigator summarized for Paz a wiretap (no. 1024) where Paz indicated that he did not want to go through insurance to get an unidentified female's car repaired. Respondent suggested that Paz could pay the female \$3,000 of his own money, of which there would be no record, and that the female could then report the incident as a hit-and-run to her insurance company. Asked about this conversation at the interview, Respondent stated that he had no recollection of the conversation at all, and that he did not "think that would be advice [he] would give." He further noted that would have "nothing to gain" from making such a suggestion.

Counsel for Respondent argues that Respondent was being asked about this conversation over three years after it occurred, and that his lack of recall was understandable under those circumstances. However, having reviewed the interview and wiretap recordings, I find Respondent's answers to be misleading and, at times, unresponsive. While the tribunal appreciates that the passage of time can weaken the detail with which one might be able to recall a specific conversation or event, Respondent was provided all the relevant and specific details by the interviewer. Moreover, he can be heard clearly on the wiretap directing Paz as to what steps he should take with the insurance company. Given the very specific nature of his own words, and the fact that his recollection likely would have been refreshed by the details provided by the interviewer, the only logical conclusion that can be drawn is that Respondent was being evasive

and misleading when he stated he did not recall the conversation and that he would not have given this type of advice to Paz. Accordingly, he is found guilty of Specification 6.

Specification 7 alleges that Respondent made misleading statements regarding his patronizing a prostitute on April 16, 2017, in that he denied ever soliciting or having sex with a prostitute, and claimed he did not recall the very brief wiretapped conversations with a woman named Mary where he asked if it was a good time to come to the [REDACTED] location (call nos. 6162, 6164). As discussed above regarding Specification 5, the Department failed to establish that Respondent actually engaged in sexual acts with a prostitute on that day. As such, the record has not established, by a preponderance of the credible evidence, that Respondent's statement during the interview was misleading. Accordingly, I find Respondent not guilty of Specification 7.

Specification 8 alleges that Respondent made misleading statements regarding a conversation with Paz on June 1, 2017 about the possibility of committing assault. During the interview, the investigator summarized at length a wiretap conversation where Paz detailed to Respondent that a male was stalking his daughter and that he could do one of two things: have him beat up at a club, or file a police report against the male. Respondent warned that if he went with the second option, the kid might start "breaking balls" with Paz. When asked about the conversation, Respondent suggested that it seemed he had been barely listening to Paz, and stated he did not recall the conversation. He also was insistent that he did not suggest assault was the better option.

Although Respondent clearly rejected the second option of filing a police report, at no time during the conversation did he affirmatively endorse the option of having someone beat up the male. Indeed, Respondent never said to Paz that it would be a good idea to assault the male.

Given this gap in the evidence, it cannot be said that Respondent was misleading when he denied having suggested to Paz that assault was the better option. Accordingly, I find Respondent not guilty of Specification 8.

Specification 9 alleges that Respondent made misleading statements regarding a conversation with Paz on March 20, 2017 about the possibility of intimidating a third party. During the call (no. 6730), Paz told Respondent that he wanted someone to call and scare the owner of a restaurant who was charging Paz \$1,500 for a table. Paz asked Respondent if he knew anyone who could handle the situation, since he used to work in the neighborhood; Respondent answered that that he no longer knew anyone up there. During his Department interview, Respondent suggested that he did not “catch” or hear the part of the conversation where Paz asked him for help “scaring” someone; Respondent claimed that he simply was “amazed” by the high price of the table, and only recalled Paz asking him if he knew someone that could get Paz into the club.

Having carefully reviewed the conversation between Respondent and Paz, I do not credit Respondent’s claim that he did not hear the potentially corrupt segment of the conversation. On the wiretap, Respondent readily responds to Paz’s request for someone to call and scare the owner by responding that he did not know anyone up there. I find that Respondent’s answers during the Department interview were not rooted in a genuine lack of recollection, but in an intent to mislead about the potentially corrupt nature of the conversation. I therefore find Respondent guilty of Specification 9.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on December 8, 1997. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. In 2014, Respondent forfeited 15 vacation days after pleading guilty to (i) failing to properly comply with Vice Enforcement Division policy regarding undercover operations and (ii) failing to notify supervisors regarding property that was damaged as a result of a forced entry into the wrong premises.

Respondent has been found guilty of six of the nine specifications. The Department Advocate asks that he be dismissed from the Department, while counsel for Respondent asks for a lesser penalty. This tribunal is mindful that Respondent has more than 20 years with the Department, during which he has earned one medal for Excellent Police Duty and three for Meritorious Police Duty, and that he has been found not guilty of three of the charges against him. Nevertheless, his misconduct in this matter was so egregious that I agree with the Department Advocate that termination is appropriate here.

The wiretap recordings and audit reports reveal a disturbing course of conduct during which Respondent repeatedly provided unauthorized information to Paz in connection with Paz's illegal operation. The calls, themselves, are particularly troubling, as Respondent appears to take an active interest in Paz's criminal activities, and is a willing participant in their discussions. Respondent then compounded his misconduct by making misleading statements during his Department interview regarding two of his conversations with Paz.

Police officers hold a vital position of public trust, and must be held to the highest standards of honesty and integrity. With his actions here, Respondent has repeatedly violated that trust in a way that makes his continuation with the Department untenable. Taking into account the facts and the circumstances in this matter, I recommend that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED



NOV 1 2019
JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
SERGEANT LOUIS FAILLA
TAX REGISTRY NO. 920264
DISCIPLINARY CASE NO. 2018-19508

Respondent was appointed to the Department on December 8, 1997. On his last three annual performance evaluations, he received a 4.0 overall rating of "Highly Competent" for 2017 and 4.5 ratings of "Extremely Competent/Highly Competent" for 2014 and 2015. Respondent has been awarded one medal for Excellent Police Duty and three medals for Meritorious Police Duty.



In 2014, Respondent forfeited 15 vacation days after pleading Guilty to (i) failing to properly comply with Vice Enforcement Division policy regarding undercover operations and (ii) failing to notify supervisors regarding property that was damaged as a result of a forced entry into the wrong premises; two other specifications were dismissed.

Respondent has been suspended since September 12, 2018 in connection with the instant matter.

For your consideration.

A handwritten signature in blue ink, appearing to read "Jeff S. Adler".

Jeff S. Adler
Assistant Deputy Commissioner Trials